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Attorney Docket No. CIT1250-2 (CIT2883)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Lewis *et al.* Art Unit: 1623
Application No.: 09/409,644 Examiner: Gitomer, R.
Filed: October 1, 1999
Title: CONDUCTIVE ORGANIC SENSORS, ARRAYS AND METHODS OF
USE

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Commissioner for Patents
Washington, D.C. 20231

AUG 27 2001

RESPONSE TO RESTRICTION REQUIREMENT TECH CENTER 1600/2900

Sir:

This paper is submitted in response to the Restriction Requirement dated June 20, 2001, restricting the above-identified application to the following claim groupings:

- I. Claims 1-49, 73-84, and 91-97, drawn to a sensor classified in class 204, subclass 403;
- II. Claims 50-71, and 85-90, drawn to methods of detecting an analyte or disease classified in class 435, subclass 4; and
- III. Claim 72 drawn to methods of detecting a microorganism classified in class 435, subclass 4.

Applicants respectfully traverse the restriction of claims 1-97 to the above-identified groupings.

CERTIFICATION UNDER 37 CFR §1.8

I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date, August 20, 2001 in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231.

Karen LePari

Name of Person Mailing Paper

Karen LePari
Signature

The Examiner asserts that Claims 1-49, 73-84, and 91-97 (Group I), drawn to a sensor, are patentably distinct from Claims 50-71 and 85-90 (Group II), and claim 72 (Group III), which are drawn to methods of detecting an analyte or disease and a method of detecting a microorganism, respectively. By way of justification, the Examiner suggests that the methods of Group II and III can be practiced with a materially different product of that of Group I. Applicants respectfully submit that the claims of Group II and III are based upon the use of the Group I subject matter. Thus, searching Groups I, II, and III simultaneously will not impose an undue burden upon the Examiner. Accordingly, Applicants respectfully request that Group I, II, and III, be rejoined for examination in the present application.

In addition, the Examiner asserts that Claims 50-71 and 85-90 (Group II) are patentably distinct from claim 72 (Group III). By way of justification, the Examiner asserts that detecting analytes is different than detecting microorganisms. Nonetheless, as noted in MPEP 808.02, a demonstration of distinctness by itself is not a sufficient reason to impose a restriction requirement. In the present case, the Examiner has classified the claimed methods into the same class (class 435), albeit into different subclasses. Searching two subclasses of the same class would not be burdensome to the Examiner, therefore the Examiner is respectfully asked to remove the restriction between Groups II and III and rejoin Claims 50-72, and 85-90 for examination.

In order to be fully responsive to the Restriction Requirement, Applicants elect the invention of Group I, Claims 1-49, 73-84, and 91-97, drawn to a sensor classified in class 204, subclass 403, with traverse.

Should the Examiner have any questions or believe that a teleconference would be helpful to clarify or advance the present application to allowance, the Examiner is invited to call the undersigned attorney at (858) 677-1456.

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Accompanying this response is a petition for one-month extension of time and the required fee. Should any additional fee be required or any credit be due, the Examiner is authorized to charge any fees or credit any overpayments, to deposit account number 50-1355.

Respectfully submitted,

Dated: August 20, 2001



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